

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
MACON DIVISION

MARTIN KENTRAE KENDALL, :
: Petitioner :
: VS. :
: :
UNITED STATES OF AMERICA, : CASE NO. 5:09-CV-900061 (HL)
: : CASE NO. 5:06-CR-47 (HL)
: Respondent :

ORDER

Before the Court is **MARTIN KENTRAE KENDALL'S** motion for a Certificate of Appealability (“COA”) from this Court’s May 19, 2010 Order, which adopted the United States Magistrate Judge’s Recommendation that Petitioner’s Fed. R. Civ. P. 60(b)(1) motion be dismissed. (R. at 94, 97, 100).

The United States Court of Appeals for the Eleventh Circuit has held that a petitioner is required to obtain a COA to appeal the denial of a Rule 60(b) motion. *Gonzalez v. Secretary for the Dep’t of Corr.*, 366 F.3d 1253, 1264 (11th Cir. 2004). Under §2253(c), a COA may issue only if the applicant has made a substantial showing of the denial of a constitutional right. For reasons stated in the United States Magistrate Judge’s Recommendation and this Court’s Order adopting the same, Petitioner has not made such a showing. 28 U.S.C. § 2253 (c)(2). Accordingly, petitioner’s motion for a COA is **DENIED**.

SO ORDERED, this 14th day of July, 2010.

s/ Hugh Lawson
HUGH LAWSON
UNITED STATES DISTRICT JUDGE

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